

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #09	CCRB Case #: 201904872	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/03/2019 7:10 PM	Location of Incident: 319 7th Avenue in Brooklyn, 78th Precinct stationhouse	18 Mo. SOL 7/20/2021	Precinct: 78		
Date/Time CV Reported Wed, 06/05/2019 3:02 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 06/05/2019 3:02 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Goodman	18413	943315	078 PCT
2. POM Thomas Dicamillo	15487	948887	078 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Mccarthy	24558	964155	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Jason Goodman	Abuse: In front of 319 7th Avenue in Brooklyn, Police Officer Jason Goodman arrested § 87(2)(b)	
B . POM Jason Goodman	Force: In front of 319 7th Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)	
C . POM Jason Goodman	Force: In front of 319 7th Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)	
D . POM Jason Goodman	Force: In front of 319 7th Avenue in Brooklyn, Police Officer Jason Goodman hit § 87(2)(b) against a vehicle.	
E . POM Thomas Dicamillo	Force: In front of 319 7th Avenue in Brooklyn, Police Officer Thomas Dicamillo hit § 87(2)(b) against a vehicle.	
F . POM Thomas Dicamillo	Discourtesy: In front of 319 7th Avenue in Brooklyn, Police Officer Thomas Dicamillo spoke discourteously to § 87(2)(b)	
G . POM Jason Goodman	Abuse: Inside the 78th Precinct stationhouse, Police Officer Jason Goodman did not obtain medical treatment for § 87(2)(b)	

### Case Summary

On June 5, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On June 3, 2019, at approximately 7:10 p.m., § 87(2)(b) was sitting with a group of friends, including § 87(2)(b), § 87(2)(b) and § 87(2)(b) on the steps of a dentist office located at 323 7<sup>th</sup> Avenue in Brooklyn. Police Officer Jason Goodman, Police Officer John McCarthy and Police Officer Thomas DiCamillo, all of the 78<sup>th</sup> Precinct, approached the group and ordered them to disperse. In front of 319 7<sup>th</sup> Avenue in Brooklyn, PO Goodman and PO McCarthy allegedly used force against § 87(2)(b) after PO Goodman decided to arrest § 87(2)(b) (**Allegation A: Abuse of Authority- Retaliatory Arrest-** § 87(2)(g) **Allegations B and C: Force – Physical Force:** § 87(2)(g) The officers arrested § 87(2)(b) for assaulting a police officer, making a terroristic threat, resisting arrest, OGA, and disorderly conduct. PO Goodman and PO DiCamillo allegedly used force against § 87(2)(b) while lodging him in a police vehicle for transport (**Allegation D: Force – Physical Force:** § 87(2)(g) **Allegation E: Force – Physical Force:** § 87(2)(g) PO DiCamillo told § 87(2)(b) to “stop fucking resisting” (**Allegation F: Discourtesy – Word:** § 87(2)(g) In the 78<sup>th</sup> Precinct stationhouse, PO Goodman allegedly did not obtain medical treatment for § 87(2)(b) (**Allegation G: Abuse of Authority – Refusal to obtain medical treatment:** § 87(2)(g)

The investigation obtained BWC video and cell phone video evidence (Board Review 01; Board Review 02). All references to video evidence in this report refer to the timestamp in the video player, rather than any on-screen clock embedded in the video itself.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Jason Goodman arrested § 87(2)(b)**

**Allegation (B) Force: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)**

**Allegation (C) Force: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) and his friends were sitting on the steps of a dentist office located at 443 9<sup>th</sup> Street in Brooklyn when officers arrived, at which point they were asked to disperse. It is undisputed that the dentist office had complained of individuals congregating on their property on multiple occasions.

§ 87(2)(b) stated that after he and his friends walked away from the dentist’s office, he and the officers began to exchange words as the officers followed them. § 87(2)(b) denied threatening to “shoot a cop in the head” or to rape an officer’s wife. In front of 323 7<sup>th</sup> Avenue, § 87(2)(b) gave his bag to § 87(2)(b) and told him to record the officers because he could tell they were about to arrest him “for no reason,” at which point, an officer walked up to him and grabbed his left wrist and then PO Goodman tackled him to the ground. While face down on the ground, an officer pressed his knee against the back of § 87(2)(b) neck. § 87(2)(b) denied that his breathing was restricted at any point. § 87(2)(b) denied physically resisting the officers, and denied resisting being handcuffed. § 87(2)(b) denied that any officers issued him any instructions.

§ 87(2)(b) alleged that PO Goodman tackled § 87(2)(b) on the sidewalk. § 87(2)(b) landed on his stomach, with his arms behind his back. PO Goodman then rear handcuffed § 87(2)(b) and was “being rough” and “manhandling” § 87(2)(b) but § 87(2)(b) could not provide further details about specifically how. § 87(2)(b) denied that § 87(2)(b) physically resisted the officers.

§ 87(2)(b) was uncooperative with the investigation.

§ 87(2)(b) stated that PO Goodman and § 87(2)(b) began arguing, and PO Goodman pushed § 87(2)(b) on the sidewalk. § 87(2)(b) could not remember this argument beyond that both § 87(2)(b) and PO Goodman made at least one “disrespectful” comment. PO Goodman told § 87(2)(b) “Do you want to go to jail? Do you want to get arrested?” § 87(2)(b) asked, “For what?” As § 87(2)(b) continued to walk away from PO Goodman, PO Goodman pushed § 87(2)(b) again. § 87(2)(b) made a comment about “your wife” to PO Goodman. The group walked around the corner onto 7th Avenue. PO Goodman ran up to § 87(2)(b) lifted him by his torso and threw him onto the sidewalk. Officers rear handcuffed § 87(2)(b) on the sidewalk.

PO Goodman stated that § 87(2)(b) threatened him and his wife; however, he did not find the threats credible at the time. After making those threats, § 87(2)(b) took off his backpack and handed it to a friend before turning to face PO Goodman. § 87(2)(b) then pulled his pants up and “bladed” his body at PO Goodman, which PO Goodman interpreted as § 87(2)(b) preparing to fight him. § 87(2)(b) lifted his hands and took two or three steps toward PO Goodman. Deciding that he would place § 87(2)(b) under arrest for disorderly conduct, PO Goodman reached out and grabbed § 87(2)(b) hands. § 87(2)(b) pulled his whole body back which caused both § 87(2)(b) and PO Goodman to fall to the ground. PO Goodman denied tackling § 87(2)(b) to the ground. On the ground, § 87(2)(b) struggled against the officers by stiffening his arms to prevent the officers from bringing his arms behind his back. PO Goodman said to § 87(2)(b) “Give us your hands, stop resisting.” During this struggle, PO Goodman placed his shin on § 87(2)(b) upper back and shoulders. PO Goodman also noted that this shin placement was consistent with the training he received at the time of that incident. PO Goodman denied that his body came in contact with § 87(2)(b) neck or head. § 87(2)(b) eventually complied and the officers successfully rear-handcuffed § 87(2)(b) on the ground.

PO McCarthy and PO DiCamillo provided testimony consistent with PO Goodman’s testimony (Board Review 05; Board Review 06).

PO McCarthy’s BWC footage begins with § 87(2)(b) and his friends walking away. At 13 seconds into the video, § 87(2)(b) is seen turning towards the officers and saying something while animating with his hands and his head. He does not step towards the officers at that time. The video has no audio at this point. As § 87(2)(b) goes to walk away, PO Goodman approaches him at which point § 87(2)(b) turns back towards him. It does not appear that § 87(2)(b) reaches or steps towards PO Goodman before PO Goodman grabs § 87(2)(b). A struggle ensues and both § 87(2)(b) and PO Goodman fall to the ground. Given the camera movement, it is unclear what actions PO Goodman and § 87(2)(b) take and how they come to be on the ground. At 33 seconds into the video, PO Goodman is seen kneeling with his shin on § 87(2)(b) upper back. Once § 87(2)(b) is in handcuffs, PO Goodman removes his shin and the officers lift him up off the ground (Board Review 13).

None of the other BWC videos show a clearer angle of what led PO Goodman and § 87(2)(b) to fall to the ground.

§ 87(2)(b) was arrested for assault in the second degree, making terroristic threats, resisting arrest, obstructing governmental administration in the second degree, and disorderly conduct refusing to disperse. The narrative in the arrest report states § 87(2)(b) was asked not to sit on private property, and then stated to an officer, “You’re going to get shot in the fucking head.” § 87(2)(b) continued to threaten officers and then handed his bag to a friend and squared his body in an aggressive manner towards the officers (Board Review 19). Penal Law 490.20 (1) for which § 87(2)(b) was charged states that a person is guilty of making a terroristic threat when with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination or kidnapping, he or she threatens to commit or cause to be committed a specified offense and thereby causes a reasonable expectation or fear of the imminent commission of such offense (Board Review 20).

Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.

Patrol Guide Procedure 221-02 states that members of the service should avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject’s chest or back, thereby reducing the subject’s ability to breathe. (Board Review 18).

PO Goodman stated that he arrested § 87(2)(b) because § 87(2)(b) took off his backpack and handed it to a friend before turning to face PO Goodman, “blading” his body, lifting his hands and stepping towards PO Goodman. PO Goodman stated that the threats § 87(2)(b) made prior to these actions, he did not find credible. However, BWC footage shows that most of the physical actions PO Goodman described as leading to § 87(2)(b) arrest did not occur. While § 87(2)(b) did turn around to face PO Goodman, he did not step towards PO Goodman, put his hands up, or take any other physical actions that PO Goodman could have found threatening. § 87(2)(b) only continued to make statements towards PO Goodman. § 87(2)(b) arrest report describes his arrest as being initiated by the same physical actions described by PO Goodman, which the investigation has determined did not occur. BWC also shows that § 87(2)(b) was walking away as the officers followed him; therefore, he had not committed disorderly conduct by refusing to disperse. The only possible remaining arrestable offense were the threatening statements made by § 87(2)(b). Because PO Goodman stated that he did not find these threats to be credible, § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

After PO Goodman grabs § 87(2)(b) arm to place him under arrest, the BWC footage becomes unclear as a struggle ensues. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Video footage confirms that PO Goodman’s knee was not on the back of § 87(2)(b) neck as alleged, rather PO Goodman knelt on § 87(2)(b) upper back to hold

him down while he was placed in handcuffs. Once § 87(2)(b) was in handcuffs, PO Goodman removed took his weight off § 87(2)(b) back. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (D) Force: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Jason Goodman hit § 87(2)(b) against a vehicle.**

**Allegation (E) Force: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Thomas DiCamillo hit § 87(2)(b) against a vehicle.**

§ 87(2)(b) alleged that while being escorted to the police car, an officer pushed him towards the car, causing his face to strike the window. § 87(2)(b) sustained a cut to his nose as a result. § 87(2)(b) provided a photograph of this nose injury to the investigation (Board Review 16). The photo was taken the day after the incident and shows a laceration to his nostril.

§ 87(2)(b) stated that as officers lodged § 87(2)(b) into the patrol car, the back of § 87(2)(b) head struck the metal above the patrol car door.

§ 87(2)(b) stated that an officer walked § 87(2)(b) up to a marked patrol car and “pressed” § 87(2)(b) against the side of the vehicle. Although § 87(2)(b) could not clearly see how, he saw the officer push § 87(2)(b) head against the side of the patrol car.

PO DiCamillo’s BWC video (Board Review 07), beginning at 01:30, captures PO Goodman and PO DiCamillo struggling against § 87(2)(b) resistance to escort him over to, and lodge him inside of, the marked police vehicle after handcuffing him. The officers push him onto and into the police vehicle. The BWC video does not clearly show whether any part of § 87(2)(b) body struck the side of the police vehicle as the officers placed him in the back seat and there is no audible sound consistent with a body part striking the car. § 87(2)(b) complains about the officers pushing him but does not complain about his head hitting the vehicle.

PO Goodman denied that any part of § 87(2)(b) body struck the police vehicle and stated that § 87(2)(b) never complained about any part of his body striking the police vehicle.

PO McCarthy and PO DiCamillo provided testimony consistent with PO Goodman’s testimony.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (F) Discourtesy: In front of 319 7<sup>th</sup> Avenue in Brooklyn, Police Officer Thomas DiCamillo spoke discourteously to § 87(2)(b)**

At 1:30 into PO DiCamillo’s Body Worn Camera video, he tells § 87(2)(b) to, “Stop fucking resisting” while bringing him to the police vehicle in handcuffs. A crowd gathers and follows the officers while they bring § 87(2)(b) to the police vehicle. Officers repeatedly tell § 87(2)(b) to stop resisting during this time.

PO DiCamillo explained that he said, “Stop fucking resisting” because § 87(2)(b) was “pulling away” from both his and PO Goodman’s grasp.

DCT case #79627/04 states, whenever a civilian refuses to comply with a direct order issued by an officer in the street in the presence of other civilians, the potential exists that the refusal will encourage others to do likewise, thereby possibly igniting the crowd and converting what had been a benign street situation into a potentially dangerous and explosive one. When a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the officer's verbal slip does not rise to the level of actionable misconduct. (Board Review 08).

§ 87(2)(g)

**Allegation (G) Abuse of Authority: Inside the 78<sup>th</sup> Precinct stationhouse, Police Officer Jason Goodman did not obtain medical treatment for § 87(2)(b)**

It is undisputed that § 87(2)(b) did not receive medical treatment while in NYPD custody. Whether he requested such medical treatment remains in dispute.

§ 87(2)(b) recounted that while speaking with PO Goodman in the stationhouse holding cells, he informed PO Goodman of the laceration to his nose and requested to go to the hospital. His request was never granted.

PO Goodman acknowledged speaking with § 87(2)(b) in the stationhouse but denied that § 87(2)(b) ever requested medical attention from him. PO Goodman did not notice any visible injuries to § 87(2)(b) during this incident.

PO Dicamillo and PO McCarthy did not overhear any conversation between PO Goodman and § 87(2)(b) in the stationhouse.

There is no video footage capturing this portion of the incident.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- PO Goodman has been a member of service for 13 years and has been a subject in eight CCRB complaints and 19 allegations, none of which was substantiated. § 87(2)(g)
- PO McCarthy has been a member of service for 3 years. This is the first CCRB complaint to which he has been a party.
- PO DiCamillo has been a member of service for 10 years and has been a subject of six CCRB complaints and 11 allegations, three of which were substantiated.
  - CCRB case #201903880 involved substantiated allegations of refusal to provide name and shield number as well as a retaliatory summons. The Board recommended, and the NYPD imposed, Command Discipline A.

**Mediation, Civil and Criminal Histories**



- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_